

setting out the circumstances in which failure to treat a handicapped baby will provide a defence to a criminal prosecution. Unfortunately, legislation, whether in the form of a new offence or in the form of a special defence to an existing offence, is not the solution to this problem as it will create far more difficulties than it will resolve.

The solution lies in those responsible for bringing criminal prosecutions for homicide in this country instituting the most careful enquiries into reported cases before prosecuting, and carrying out these enquiries with the aid of expert advice. The prospects for treating babies with life-threatening abnormalities can, and have, changed rapidly and it is impossible for a parliamentary Bill, however skilfully drafted, to anticipate what may happen in the future. All that would happen as a result of this Bill is that paediatricians would be forced into defensive medicine and the indications for treatment would become legal and not medical. Should that occur the main sufferers would be the patient and relatives, and not, as the moralist groups so fervently wish, the doctors and nurses who must assume responsibility for the clinical management of these difficult, and fortunately rare, cases.

In conclusion, it is important to understand that decisions which confront the medical profession in these cases are not regarded by doctors (as they are by Mr Ferguson) as issues of paternalism versus autonomy in the treatment of 'defective neonates'. In the first place, from the medical point of view the issue only arises, or should only arise, where the child is suffering, or is suspected to be suffering, from a life-threatening abnormality. If the child does not qualify within that definition the same treatment is given as would be given for any other child. If the child does fall within that definition, as the Arthur child did, the

child is made as comfortable as possible while the full extent of the abnormalities is assessed in order to determine the feasibility of further treatment. If the child has been born without a brain the institution of highly technical and sophisticated life-support mechanisms is hardly justified. The difficulty arises in the grey area where the extent to which these procedures (which may involve repeated surgical operation and much associated suffering for the child) is clinically justifiable is uncertain. If society decides that the taking of such a decision by a paediatrician represents unacceptable paternalism within the terms of Mr Ferguson's paper, so be it. But I profoundly disagree with his conclusion that legislation is preferable, and the main grounds of my disquiet are the practical consequences of legislation, particularly those which would follow the passing of a Bill such as that drafted by the authors of the first paper.

## References and notes

- (1) This particular allegation was made by an American doctor at the 1981 British Medical Association meeting in San Diego. It was not denied by any of his American colleagues.
- (2) Criminal Law Revision Committee. *Offences against the person*. 14th report, 1980: Command No 7844; para 115.
- (3) *Daily Telegraph* 1982 Feb 15: 6 (col 2).
- (4) *British medical journal* 1982; 284: 612-613.
- (5) *British medical journal* 1982; 284: 898-900, 1120, 1562, 1633.
- (6) *R v Adams* 1957: Criminal law review 365. The judgment made clear that the doctor 'is entitled to do all that is proper and necessary to relieve pain and suffering even if the measures he takes may incidentally shorten life'.

### News and Notes

#### Name change

D Reidel Publishing company of Dordrecht, Holland have announced that as from this year *Metamedicine* will be called *Theoretical Medicine*. However, the format of the journal will not change: it will remain a forum for interdisciplinary studies.